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OFFICE OF PETITIONS

In re Patent No. 7,557,229 : DECISION ON REQUEST
Roy G. Gordon, et al. : FOR
Issue Date: July 7, 2009 : RECONSIDERATION OF
Application No. 10/534,687 : PATENT TERM ADJUSTMENT
Filed: May 12, 2005 : AND
Atty Docket No. 42697.149 US3 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 7, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-three (593) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-three (593) days¹ is **GRANTED to the extent indicated herein.**


¹ The "B" delay period is 393 days, not 157 days as patentees assert. Patentees calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is November 15, 2002. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the national stage commenced in this application on Monday, May 16, 2005. Thus, "B" maximum delay is 417 days, counting the number of days beginning on May 17, 2008 and ending on July 7, 2009, the date of issuance. See 1.703(b). Taking the 24 days of overlap from May 17, 2008 to June 9, 2009 into consideration, the "B" delay is 393.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred twenty-nine (829) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,,557,229 B2

DATED : July 7, 2009

DRAFT

INVENTOR(S) : Roy G. Gordon, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 436 days

Delete the phrase "by 436 days" and insert – by 829 days--